



## **Results from an Online Poll of California Attorneys**

**Conducted by the State Bar of California**

**August 2006**

# **Challenges to Employment and the Practice of Law Facing Attorneys from Diverse Backgrounds**

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**Results from a 2005 Online Poll of California Attorneys  
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Center for Access & Fairness**

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We also wish to acknowledge and thank the Foundation of the State Bar of California for funding this survey and for its continued support for our diversity projects.

The Committee on Senior Lawyers, Committee on Sexual Orientation and Gender Identity,

For the report and recommendations from a similar online poll of attorneys with disabilities and further information on the State Bar's access and fairness programs, please go to the State Bar website at [www.calbar.ca.gov](http://www.calbar.ca.gov), and click on Attorney Resources, Sections and Committees, and Access & Fairness.

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## **Facing Attorneys from Diverse Backgrounds**

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### **Introduction**

The demographic profile of California's legal professionals does not match that of the state's general population. Statewide census figures from 2000 show that California is comprised of 53% persons of color, yet a 2001 State Bar member demographic survey showed that only 17% of the over 206,000 lawyers in California are people of color. Women, who are 32% of the bar, also are underrepresented. Lawyers that identify as LGBT or as having a disability are just 2.4% and 4%, respectively.

This demographic disparity has fueled an increasing focus on diversity and pipeline issues in the legal profession. Many sectors in the profession, including law firms, bar associations, corporate counsel, government law offices, the courts and law schools have adopted projects that focus on education from preschool through law school, recruitment, hiring, retention and advancement in the profession.

In an effort to assist and focus on these projects, the State Bar of California sought to assess the challenges faced by attorneys from diverse backgrounds in obtaining employment and in the practice of law. In 2001 the Committee on Legal Professionals with Disabilities (CLPD) conducted a pilot online survey in 2001 on behalf of attorneys with disabilities [www.calbar.ca.gov/calbar/pdfs/reports/2004\\_Attoyns-with-Disabilities-Report-Exec-Sum.pdf](http://www.calbar.ca.gov/calbar/pdfs/reports/2004_Attoyns-with-Disabilities-Report-Exec-Sum.pdf). The survey identified many of the challenges faced by attorneys with disabilities in obtaining employment or advancing in the legal profession. Recommendations were formulated and implemented on the basis of the report. Because of the positive feedback from the pilot survey, the other Access & Fairness committees<sup>1</sup> created this survey to gather information on the challenges faced by their respective constituencies.<sup>2</sup>

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<sup>1</sup> As of March 1, 2007, the committees were sunset, and a new Council on Access & Fairness was appointed to provide a strategic vision and comprehensive perspective to address the State Bar diversity goals.

<sup>2</sup> This online survey was funded by a grant from the Foundation of the State Bar of California and from other voluntary contributions. No mandatory attorney dues have been used for this project or for any other diversity-related projects generated by the Access & Fairness Committees or any other entities within the State Bar.

## Methodology

Hertz Research of Petaluma, California conducted the poll on which this report is based. State Bar members participated in the online poll between March 1 and October 1, 2005. Because the primary intent of the survey was to measure the opinions of specific groups of members of the State Bar, the survey was not intended to be a random sampling of the entire State Bar membership. It was designed to measure the opinions of members on the basis of gender, race or ethnicity, age and sexual orientation and gender identity.

Invitations to participate in this survey were posted in publications and websites available to all California attorneys, including the State Bar website and California Bar Journal. Notices were circulated via e-mail and paper to legal services programs, local bar associations (including minority, women, LGBT and other specialty bars) and to other law-related organizations. State Bar staff and committee members made announcements regarding the poll during several events and educational programs at the 2005 State Bar Spring Summit and 2005 State Bar Annual Meeting. Most of the poll interviews were conducted online. Members who requested to take the survey offline received a hard copy version of the questionnaire by fax or mail.

A total of 833 State Bar members participated in the online poll: the survey sample included 563 female attorneys, 471 attorneys 40 years of age and above, 355 attorneys of color or mixed-race attorneys (77 African Americans, 87 Latinos, 127 Asians, 14 Native Americans, 33 mixed race, 17 other) and 155 LGBT attorneys (51 Lesbian, 68 Gay, 25 Bisexual, 8 Transgender). All participants in the survey were self-selected and self-identified. The State Bar of California does not maintain data on the ethnicity, race, gender, sexual orientation or disability status of individual attorney members. Since transgendered participants accounted for only 1% of the survey sample, this group was not large enough for separate statistical analysis, however, their responses are summarized in this report.

Regardless of methodology, all polls are subject to factors that can influence their accuracy. The margin of sampling error for any survey is determined in great part by the number of respondents, and for this survey Hertz stated that the margin was as follows: for females and those over 40, approximately +/- 5%; for people of color or mixed race individuals, approximately +/- 6%; and +/- 8% for the LGBT group. Other sources of error also can impact the accuracy of poll results, including the percentage of the population being surveyed who choose to participate, the likelihood of being connected to the Internet, the survey wording and design and the methodology used to publicize the survey. It is impossible to assess precisely the cumulative impact of all of these potential sources of error.

Initial findings were presented during the 2006 State Bar Spring Summit, providing an opportunity for stakeholders to comment. The State Bar Board of Governors received this Report and Recommendations on August 19, 2006, but allowed for editing, adding charts, and for incorporating respondents' quotes where they are illustrative.

## **Online Poll Design**

The Access and Fairness Committees spent a number of months designing the survey outlines, the general survey topics and specific areas of interest for their respective constituencies, and then drafted questions. Participation was to be anonymous and responses confidential. A consultant assisted with the final survey design so that the survey complied with the online polling technology and general survey techniques.

John Van de Kamp, 2005 State Bar President, narrated the introduction to the subject matter for the survey. In order to accommodate those who could not complete the survey online, State Bar staff mailed, faxed and e-mailed copies of the narrative and survey questions, and conducted confidential phone interviews.

The survey outline began with general questions to gather basic demographic information, information about the type of legal practice and information about an employer's hiring practices and efforts to obtain and promote a diverse workplace. The balance of the survey was divided into four sections, addressing gender, age, race and ethnicity, sexual orientation and gender identity. The questions in these sections focused on whether the participants had been denied employment opportunities or received unfair treatment in a variety of professional settings and, if so, the nature of the discrimination or bias and whether they were satisfied with the response when they reported discrimination.

## **General Observations**

Comments from participants illuminated areas absent from this survey that could be included in future research. For example, questions about employers were directed at current employers, so respondents did not believe they had the opportunity to respond regarding the policies of previous employers. Similarly, several attorneys pointed out that questions were not particular as to time period, so that they were recalling incidents from years ago. Some respondents recounted discrimination that they had seen directed toward others, although no questions addressed this. Others indicated that they felt their employment choices had been restricted because of their race, gender or LGBT status (many noted that the public sector or solo practice were their only options). Several commented that the survey omitted some groups that experience bias in legal workplaces: some suggested that religion should be included as a category, and commented that especially since 9/11, bias against Middle Easterners is rampant. Finally, many respondents represented two or more of the categories being studied, so that some reported difficulty in isolating the reason that they experienced discrimination.

In spite of the above caveats, the State Bar learned a great deal from this survey. The experiences shared by the respondents provided many useful insights that can be used toward developing and implementing key strategies and initiatives aimed at increasing diversity in the legal profession.

The following findings and recommendations were developed by the Access & Fairness Committees and represent their analysis of the data generated by the survey and the

results of their discussions regarding the most appropriate responses for addressing the various challenges and issues presented through the survey.

## Gender Bias

Many of the 563 women attorneys that participated in the survey reported that they had encountered unfair or inappropriate treatment in their law offices and in courtrooms because of their gender. Most of the women discussed their unfair treatment with a supervisor, as did many who experienced inappropriate behavior, but nearly all were unsatisfied with the outcome. Where the survey asked for elaboration on the multiple choice answers, some specific issues stood out as well. Many women were asked inappropriate and illegal questions in the hiring process; much of the unfair and inappropriate behavior had to do with women being or becoming parents; and several women stated that they were at their current workplace because they had fled the situations that they described, or because they needed more flexibility at work. Respondents also commented that they were not included in the important informal networking systems that assisted and advanced their male colleagues. The sample comments below represent hundreds of others that were submitted.

### Law office

In response to questions about their law offices, 45% of the women respondents reported that they had been treated unfairly and 41% reported that they were treated inappropriately because of their gender. Antidiscrimination policies were in place at the workplaces of 85% of the respondents, yet the largest number of incidents involved firm partners.

Unfair treatment in the workplace included unequal pay, denial of promotion or advancement and denial of good assignments.

#### Reported unfair treatment based on gender (45% reporting)

Unequal Pay	Denial of Promotion	Denial of good Assignments
28%	26%	21%

### Comments

- *As a woman I am paid less than my male counterparts. We do not have sufficient women in the highest management ranks.*
- *The men got the good challenging assignments and bonuses. The women did not.*
- *The behavior has become more subtle than 30 years ago. Male attorneys still tend to refer work to other males.*



Of the women who experienced this treatment, 51% discussed the unfair treatment with their supervisors, but 94% of them said that they were not satisfied with the outcome.

Inappropriate office behavior toward female attorneys was more likely to have come from partners than from associates or staff.

#### Source of inappropriate behavior in the law office

Source of Behavior	Partners	Associates	Staff
Percentage Reporting	28%	15%	12%

Condescending treatment was the most frequently experienced inappropriate behavior, followed by sexual teasing, sexually demeaning jokes and sexual harassment.

#### Types of inappropriate behavior

Condescending Treatment	Sexual Teasing, Looks, Gestures	Told Sexually Demeaning Jokes	Sexually Harassed
31%	16%	16%	10%

#### Comments

- *I was initially treated like another secretary. I was told to schedule depositions, arbitrations, etc.*
- *My practice chair withheld billable hours from me because I would not go out drinking with him or let him come home with me. He was my supervisor, so I had nowhere to go.*
- *Expecting me to do more "wifely" duties b/c of my gender – i.e. get office-lunch or stay late and listen to personal problems when I have my own.*
- *In a room full of male lawyers – with myself the only female – a male partner threatened to rape a female lawyer on the other side*
- *I have found that in high-level meetings that input from women are frequently either ignored or devalued.*
- *Most of the behavior that I've experienced is subtle – jokes or references that are made in my presence that if I object to – I'm considered "defensive" or sensitive.*
- *I have been patted on the head....called sweetheart or honey.*

While nearly half (42%) reported this inappropriate office behavior to their supervisor, almost all (89%) of those who reported inappropriate behavior said that the problem was not resolved to their satisfaction.

## Courtroom

More than half (54%) of the female attorney respondents said they had encountered discriminatory or inappropriate behavior in court because of their gender. In court, most inappropriate behavior came from opposing counsel and judges.

**Source of inappropriate behavior in court**

Source of Behavior	Judges	Court Staff	Opposing Counsel
Percentage Reporting	31%	10%	34%

### Comments

- *Despite always dressing professionally, too often I have been mistaken for a secretary or a paralegal. Judges have even asked me at court appearances where my attorney was!*
- *I had to listen to Judges' recite sexual stories to the mainly men attorneys in chambers when we were reviewing criminal cases on that day's docket.*
- *Judges and mediators have addressed male co-counsel although I am lead counsel.*
- *Judges being deferential to older male attorneys vs. younger female attorneys. Things like letting the men speak first – or longer.*
- *I see male judges paying attention to male lawyers when they speak, but ignoring female lawyers.*
- *Sexually demeaning jokes by a Commissioner between court hearings.*

### Other Comments

When asked to provide other comments about discrimination or inappropriate behavior because of their gender, women attorneys responded as follows:

- *I find that many male attorneys and judges do not give me the same respect they give even younger and less experienced male associates. I have had attorneys talk around me – as though I am not there.*
- *I feel like I have to work twice as hard to prove myself as a female attorney.*

Their male colleagues had similar comments:

- *I have witnessed discrimination against other attorneys and staff in my office because they are women.*
- *I have never received anything but privilege for being male, but I have seen women attorneys treated inappropriately many times in my career.*

- *I have observed others being discriminated against because of gender, particularly pay raises and promotions.*
- *In my early career at a large firm they held a bachelor party - with stripper – in the conference room next door to the office of a young female associate. She was very upset. Feel bad I wasn't more sympathetic.*

There were no survey questions about parenting and work, but many women addressed the issue where comments were requested:

- *A prior employer denied my maternity leave and thus – after my child's birth – I was unemployed.*
- *I am told I cannot travel because I am a mom. I am told that I am unavailable for after work networking events because I am a mom.*
- *In my previous 10 years of practice in large law firms I have repeatedly found that women who have children must leave or face the constant threat of termination or not making partner because they cannot easily bill over 50 hours per week.*
- *Although I have been allowed a flexible schedule to accommodate my childcare responsibilities, there is nevertheless the message given in subtle ways that I am on a lesser career track because of it, and the expectation to work overtime is there.*
- *I was terminated after the birth of my second child.*

Many women also commented on the important informal networks from which they are excluded, sometimes intentionally:

- *(I was left out of) ...opportunities to informally associate with colleagues in law firm that had a basketball team only open to male attorneys and also firm where partners were members of all-male social clubs and only male associates were invited to attend.*
- *Inability to bond with the boys through sports talk in the office and exclusion from tennis games and beer outside the office.*
- *The "old boys club" does not invite women to have the plum assignments and gives women less mentoring and "boosting"*
- *Male attorneys with whom I was working on a case would take the discussion into the men's room oblivious to my inability to continue to participate.*

Although no questions specifically addressed discrimination in the hiring process, many women added comments about what they had experienced:

- *I have been asked illegal questions in almost every interview I've been on such as my age, if I'm married, have children (and their ages) and my husband's profession and race.*
- *There are still some biases against women as one of the first questions I am asked is "do you have children? How old are they? Are you planning on having more?"*
- *Having compared experiences interviewing with my male colleagues – I think that because most interviews are with male partners, males have an advantage in this process. I have encountered what I describe as "old boys clubs" many times.*

Respondents reported that 85% of their workplaces had policies prohibiting discrimination, but commented on the disparity between policy and practice:

- *Official company policies make no difference in the real world. In my experience the "old boys' network" is alive and well. The vast majority of senior attorneys are men. Female attorneys are kept in lower-tier legal positions.*
- *My organization has policies addressing these issues however the unofficial policy is that we are not to avail ourselves of these policies and practices.*
- *The official policy follows equal opportunity guidelines, however the implementation of those guidelines is a whole other issue.*
- *The policies are fine. The actual practices are not.*

As was mentioned earlier in the report, these numbers could reflect the wording of the questions. While some respondents' current employers have good policies, the discrimination described might have occurred at a previous worksite. Still, the comments above suggest that the existence of policies promoting gender equality does not preclude continuing gender discrimination in many workplaces.

Several respondents reported that they retreated to a solo practice to avoid the discriminatory treatment they were experiencing in other legal environments:

- *I'm solo because I had problems like these in the traditional law firm environment. I hope this survey allows us to address previous employers because a lot of us go this route to stay in the profession after being forced out of a discriminatory environment.*
- *I was forced to form my own firm in order to be able to balance my family and professional obligations. I did not find much flexibility and felt tremendous pressure and stress when I worked for other law firms.*
- *I started my own firm due to the discriminatory and unfair employment practices of past employers. I have made a substantial sacrifice in time and money and have lost years of career advancement. A majority of firms act as if they are above the law.*

## **Age Discrimination in the Workplace**

The survey sought responses regarding the effect of age in the workplace from attorneys over the age of 40, because that is the statutorily defined cut-off for age discrimination. The majority of survey respondents (474 or 57%) were over 40, with 24% in their forties, 27% in their fifties, 5% in their sixties, and 1% in their seventies. Responses showed that the experiences of attorneys in their forties are different from attorneys in their fifth and sixth decades. In general, the responses did not show age to be a negative factor in how a person is treated in the legal workplace, except for new lawyers seeking jobs. However, the number of attorneys reporting that they were treated unfairly because of age increased with each decade of age.

## Law office

Although the percentages of reported unfair treatment increased with age, the percentages of attorneys of all ages over 40 who reported specific unfair treatment because of their age were quite small. For example, 6% reported being denied a promotion or partnership; 4% reported that they were not given good work assignments or not paid equally; and 2% reported that they received unequal benefits or were told that clients did not want to work with them. These percentages were not meaningfully different by decade. Where percentages were higher, sometimes the response rate was extremely low, for instance, on one question, 59% of the responses from attorneys in their forties were “yes”, but only 32 of 200 attorneys in their forties answered the question, so 59% was only 19 attorneys out of 200 in that age cohort .

### Reported unfair treatment by age

Attorney Age	40 to 49	50 to 59	60 & over
Percentage Reporting	15%	32%	54%

Only small percentages of attorneys selected each of the listed types of unfairness.

### Unfair treatment by type

Type of Unfair Treatment	Percentage Reporting
Denied Promotion or Partnership	6%
Poor Work Assignments	4%
Unequal Pay	4%
Unequal Benefits	2%
Were told clients did not want to work with them	2%

Forty % of this group (51 respondents) discussed these matters with their supervisor and 100% of these respondents stated that the problem(s) had not been satisfactorily resolved.

More than a quarter (27%) of respondents over the age of 50 reported that they had lost “other economic opportunities”, that is, economic opportunities other than those in the chart above.

A majority of the respondents who commented on missed employment opportunities said they were unable to get a job because they believed that government, state agencies and law firms would not consider hiring attorneys aged 40 and older. Twenty of the respondents who made additional comments felt they could not even get an interview because of their age.

- *I was told I was not being hired because of my age – then 42 – even though I had great qualifications.*
- *I was told in no uncertain terms that no large law firm would consider hiring someone as old as I who had just graduated from law school.*
- *I have been told by certain HR personnel – informally – that their company does not hire older attorneys.*
- *They circled my college graduation date in red. This is my second career*
- *After 20 years working in a government job, I took time off to raise a child. I cannot get a job. Questions include “How would you handle working with younger people” and “Why would we hire you when we can get a brand new lawyer”.*

While some deduced that age was the reason that they were not hired, retained or promoted, others were told directly and candidly that age was the reason. A few stated that it was difficult to hide their age on a resume because of their experience and dates of degrees. Other comments included the statement that economic factors were an issue, with employers stating that experienced lawyers are more expensive than younger lawyers. Six commented they were not given advancement or were forced to retire early.

The employers’ lack of interest was based on certain assumptions:

- *(I was)... denied employment as a DDA because of my age. Was told it was a “young man’s job”.*
- *I was advised there was concern that I would not stick around for the long haul because I was able to retire at any time.*
- *I was not hired because of my age. Was asked whether I thought I could get along with the other associates who were all younger.*
- *The judicial officer said “Don’t you want someone younger and moldable?”*
- *Interviewer stated that because I was older I would want more salary than they wanted to pay. Not true.*
- *I believe most firms want young lawyers who are able to put in very long hours for several years.*
- *To a senior, minority woman applicant “Clients would not want to work with you”.*
- *Told that I have “too much” experience ...(and) that the employer was looking for “fresh blood”*



Still, 79% of the respondents over age 40 did not believe they had been treated unfairly or inappropriately because of their age. Of those who believed that they were treated unfairly and/or inappropriately the greatest percentage were older than 60 years of age.

Forty-two respondents made additional comments regarding the unfair treatment that they experienced. Some respondents felt they were excluded from law firm social events and conversations, “left out of the loop”. Some were passed over for employment opportunities, others were denied advancement, promotions and work opportunities because of their age and others commented they were denied pay raises, asked to take demotions or forced to retire. A few women commented that age was an asset, because they were finally taken seriously in their work place. Many mentioned that a youthful appearance was more important than actual age.

## **Courtroom**

Only a few (10%) of the respondents, indicated that they had experienced age related discrimination or inappropriate behavior from judges, court personnel, clients, opposing parties, opposing counsel, co-counsel, law firm staff and law school professors, administration or students. Respondents reported experiencing discriminatory or inappropriate behavior from the following: Judges (2%), Court Personnel (1%), and Opposing Counsel (2%).

- *I was treated well in court until I started to age and "lose my looks." It was disheartening to realize that what I had previously interpreted as respect for my capabilities was nothing more than shallow flirtation.*
- *It is embarrassing to have to fill out, and get signed by the judicial officer, an official judicial council form requesting the use of court-owned devices designed to assist the hearing impaired.*

## **Affects of Aging**

Only 38 (8%) of the respondents felt that infirmities of aging were a significant handicap in practicing law.

- *I don't know what you mean by "infirmities of aging." Not all people who age have disabilities- and "infirmities" is a somewhat pejorative word.*
- *I find that my immediate supervisors are not capable of understanding some of my medical needs that are a result of being older. I am 10-15 years older than both- and have no major problems- just things that have to be checked more often because of age.*

When asked whether they felt behind on technology, 393 respondents (83%) did not believe they were. Some commented that computer technology was not a problem; a few commented that technology is not an age-related issue and still others felt that computer competency is not relevant. Only sixty-two (13%) of those over 40 believed they were behind. A few noted that they were more technically savvy than their younger

peers. It should be noted that many respondents participated in this survey on line, so their technical competence might not be representative of attorneys in their age cohort.

When asked by the survey whether they were interested in a “Reverse Mentoring” program that would provide training by a law student or young attorney on the use of computers in return for offering them benefits of attorney experience. Fifty six of the respondents said yes, but 102 were not interested.

## **Ethnic Minority Attorneys Continue to Experience Employment Discrimination**

Although federal and state laws prohibit employment discrimination on the basis of race or ethnicity, many minority lawyers in California report that they continue to encounter bias in the workplace and in courtrooms. Survey responses regarding experiences in the legal profession from members of racial and ethnic minority groups, including African American, Asian American and Pacific Islanders, Latino/Hispanics, Native Americans and those who self-identify as “mixed race” and “other,”<sup>3</sup> differ from the responses from Caucasians.

Some minority attorneys recounted the challenges they face in obtaining quality assignments and recognition for their work, while feeling socially ostracized and singled out for being different. These responses reveal the additional hurdles that minority attorneys must overcome in order to obtain quality assignments and receive recognition for their work. They also report on the challenges they encounter in overcoming the stigma of affirmative action - the perception that they are not as qualified as their Caucasian counterparts. Latino/Hispanic and Asian/Pacific Islander and African American attorneys report that offensive stereotypes and racist jokes persist in the workplace. Respondents included 678 Caucasians, 77 African Americans, 87 Latinos, 127 Asian Americans, 14 Native Americans, 33 “Mixed Race” and 17 “Other”.

### **Law Office**

When respondents were queried about whether they had experienced unfair or inappropriate treatment at work because of their ethnicity, the results varied:

#### **Unequal Treatment in the Law Office by Race/Ethnicity**

<b>Race/Ethnicity</b>	<b>Percentage</b>
<b>Caucasian</b>	<b>9.0%</b>
<b>African American</b>	<b>58.4%</b>
<b>Latino</b>	<b>39.3%</b>
<b>Asian/Pacific Islander</b>	<b>31.4%</b>
<b>Native American</b>	<b>16.7%</b>
<b>Mixed Race</b>	<b>25.0%</b>
<b>Other</b>	<b>62.0%</b>

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<sup>3</sup> The survey did not track data on the ethnic or racial backgrounds of those who self-identified as “mixed race” or “other.”

When responses were separated by both race/ethnicity and type of treatment, the contrasts were even more pronounced: fewer than 5% of Caucasians reported that they were denied employment opportunities, pay or benefits because of their race or ethnicity, while the percentage of African Americans, was much higher in response to the same questions.

#### Reported Unfair Treatment in the Law Office by Race/Ethnicity

Race/ Ethnicity	Unequal Pay	Unequal Benefits	Poor Work Assignment	Were told clients “don’t want to work with you”	Denied Promotion or Partnership
Caucasian	2.4%	1.2%	3.5%	.6%	4.7%
African American	33.8%	9%	37.7%	23.4%	45.5%
Latino	13 %	2.4%	13.1%	4.8%	21.4%
Asian/Pac Islander	17%	8.4%	16%	7.6%	20%
Native American	No data	No data	No data	No data	17%
Mixed Race	12.5%	3%	6.3%	12.5%	9.4%
Other	47%	29.4%	41.2%	17.6%	41.2%

Some minority attorneys commented that they were not mentored; they frequently encountered a presumption that they were less able than their peers, and they were not given good assignments.

African American attorneys commented:

- *Upon starting at a large firm, a partner explained he believed I did not have the same educational background or sufficient preparation because I was likely admitted to law school via affirmative action. He cautioned me not to take difficult assignments.*
- *The assigning partner at the law firm said that he would send me less difficult assignments based on his belief that I was admitted to law school solely because of affirmative action. When I succeeded, I was met with expressions of surprise.*
- *I could not find a mentor. When receiving a review [I] was told [that] I am doing a good job – yet the partner I worked for claimed otherwise. I requested specific guidance and help to make everyone satisfied and did not receive the requested assistance.*
- *I believe that when I was in private practice I was left out of assignments I was clearly qualified for due to my race. I was also excluded from social circles for the same reason. I received no support, even when I asked, to market the firm’s services.*

Asian/Pacific Islander attorneys reported the following:

- *I was subject to erroneous presumptions by attorneys that I was an affirmative action admittee to law school (which I was not) or that I benefited in business promotion from similar programs (which I have not.)*
- *[I was] denied access to important firm clients. Not mentored like my white male counterparts. No one “handed” a client to me. I had to build my own book of business. White males “inherit” their book from a senior white male partner.*
- *Generally, non-minority partners are more comfortable with others like themselves, which naturally limits the type of work given to minority associates. Minority partners don’t always help out minority associates.*
- *I worked with an employment law partner who made offensive stereotypical comments about Asian women as being ‘passive, submissive and demure,’ and then in my performance review, he claimed that I was ‘overly aggressive with opposing counsel.’*
- *[I was] denied opportunities to advance due to low-visibility assignments and no recognition of accomplishments. Job isolation prevents performance recognition and allows a supervisor to spread false rumors of poor work performance, which is hard to rebut.*

Latino/Hispanic attorneys wrote the following:

- *I was not given work assignments or a position of greater responsibility [because] of a lack of confidence in my ability due to my racial background.*
- *I have experienced people making racial slurs and comments about my [Latino] race and about other races – and most seem to think its fine – but I disagree*
- *As a minority you have to work extra hard. You are judged by a higher standard in traditional big firms. You are not given any support or mentorship but you are held to a higher bar.*

When queried about whether they had raised these issues with their supervisor and whether the matter had been resolved to their satisfaction, few reported satisfaction with the outcome.

**Resolution of Bias Issues with Supervisor by Race/Ethnicity**

<b>Race/ Ethnicity</b>	<b>Discussed Bias with Supervisor</b>	<b>Problem Resolved Satisfactorily</b>
<b>Caucasian</b>	<b>37%</b>	<b>13%</b>
<b>African American</b>	<b>62.2%</b>	<b>7.1%</b>
<b>Latino</b>	<b>40%</b>	<b>10%</b>
<b>Asian/Pacific Islander</b>	<b>50%</b>	<b>11.8%</b>
<b>Mixed Race</b>	<b>14.3%</b>	<b>No data</b>

Fewer than 1% of Caucasians reported racially biased treatment by law firm staff, but racial and ethnic minorities reported a different experience.

### Unfair Treatment by Law Office Staff Based on Race

Race/ Ethnicity	Percentage Reporting
African American	14.3%
Latino	6.0%
Asian/Pacific Islander	9.2%
Mixed Race	6.3%
Other	5.9%

### Courtroom

While very few Caucasians reported bias in legal venues other than their place of employment, more than half of African Americans, more than 40% of Latinos and Asian & Pacific Islanders, and a third of Native Americans, reported bias. Their experiences broke out as follows:

### Discrimination in Court by Race/Ethnicity

Race/ Ethnicity	Judges	Court Personnel	Opposing Counsel
Caucasian	1.8%	.9%	1%
African American	32.5%	23.4%	18.2%
Latino	22.6%	13.1%	11.9%
Asian/Pacific Islander	20.2%	10.1%	11.8%
Native American	33.3%	33.3%	No data
Mixed Race	18.8%	12.5%	9.4%
Other	17.6%	11.8%	11.8%

### Comments

- I have had judges make inappropriate racial comments. Opposing counsel have told me Mexican jokes.*
- I once heard a judge say, “boy that’s a lot of cash for a bunch of wetbacks”.*
- The Bailiff walked up to only me and asked if I was an interpreter – even though I sat where all the other attorneys sat in the court room.*

## **Minorities Face Challenges In Finding Employment in the Legal Profession.**

Although no specific question addressed it, many minority attorneys commented that they face challenges finding jobs despite their qualifications. A few of their comments follow:

- *Despite superior academic and professional credentials I was unemployed in California for almost one full year and couldn't even get an interview (arguably because of my heavily ethnic name). (from an African American)*
- *I hold degrees from Stanford, Harvard and UC Berkeley, yet I was not even given an interview for a position that would have represented the organization's image to the outside world. (from a Latino)*
- *I definitely believe that I am not getting employment because I am an Indian woman. I have been ignored and denied job opportunities.*
- *I am an Arab American. In the post-911 era I had a very difficult time trying to get a job.*

### **Bias Toward Lesbian, Gay, Bisexual and Transgender Attorneys**

Despite recent progress regarding lesbian, gay, bisexual and transgender ("LGBT") rights, visibility and acceptance in the workplace, LGBT attorneys in California continue to encounter barriers to equality in the legal profession. LGBT attorneys who responded to the survey reported facing discrimination and bias in the workplace, the courtroom and in other legal venues. They reported experiencing inappropriate jokes and comments, denial of promotion and good work assignments, marginalization and unequal pay. None of the surveyed LGBT attorneys brought their concerns about this conduct to their supervisors, perhaps because, they believed that they needed to hide their sexual orientation or seek alternative forms of employment, in order to avoid workplace discrimination.

Of the 18% (155) of the 833 survey participants who identified themselves as LGBT, 8% (68) identified themselves as gay, 6% (51) identified themselves as lesbian, 3% (25) as bisexual and 1% (8) self-identified as transgender. According to Hertz Consulting, the small sample size of the individual groups within the LGBT classification limits the statistical significance of this survey for these groups, especially regarding the transgender group. Nonetheless, the negative workplace incidents described by the respondents suggest the recommendations that follow.

#### **Law office**

Lesbian, gay and bisexual ("LGB") attorneys most frequently reported experiencing the following unfair treatment, based on their sexual orientation: denial of promotion or partnership, receiving unequal benefits and not being given good work assignments.



### Unfair Treatment in the Workplace

Type of Treatment	Percentage Reporting
Unequal Pay	15%
Denial of promotion	26%
Denial of Good Assignments	19%
Unequal Benefits	19%

LGB, female and minority respondents had similar responses with regard to promotions and assignments, but LGB individuals report higher rates of "Received Unequal Benefits", perhaps because, LGB individuals are denied many of the federal and other benefits enjoyed by heterosexuals who can marry their partners. Transgender attorneys reported higher rates of unfairness, but because there were so few respondents, they are not statistically significant enough to compare here.<sup>4</sup>

Some variation existed among sub-groups within the LGBT community, although these variations may not be statistically significant in light of the small sample sizes. Other than transgender attorneys, who reported the highest rates of each type of employment discrimination, gay men reported the second highest rates.

### Unfair Treatment by Orientation

Reported unfairness	Gay	Lesbian	Bisexual
Unequal pay	21%	12%	7%
Unequal benefits	24%	18%	11%
Denial of good assignments	21%	20%	14%
Denied promotion	35%	22%	11%

Most notably, none of the 155 LGBT attorneys that participated in the survey reported discussing concerns about the discriminatory treatment they experienced. This is in contrast to the percentage of attorneys in other demographic groups who reported incidents: 51% of female attorneys, 40% of attorneys over 40 years of age and 52% of attorneys of color who experienced workplace discrimination discussed these matters with their supervisor.

Comments submitted by some participants may explain this difference. Several LGBT attorneys stated that discrimination had become more subtle and difficult to pinpoint than it had been historically. These attorneys felt that they were being treated unfairly, but that the discrimination was neither overt nor easily provable.

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<sup>4</sup> Overall, the eight transgender attorneys reported harsher treatment and more severe forms of discrimination than LGB respondents. Most reported discrimination in every area in the survey, with four to five reporting each of the following: denial of promotion or advancement, denial of good work assignments, unequal pay and benefits and being told that clients did not want to work with them.

- *(I was) excluded from informal social interactions and work relationships necessary to retain position and to advance.*
- *Some male District attorneys greet me and speak with me differently than other male criminal defense attorneys.*
- *I believe I am not treated respectfully by a partner, but I don't know if it's because I'm lesbian. Most people are much too savvy to be obvious about it- but as a lesbian you always wonder if it is a factor, particularly if you are well-liked*
- *The type of discriminatory treatment that I believe is most prevalent against gay attorneys may not even be recognized by those engaging in such conduct. Too often straight attorneys judge gay attorneys as less "aggressive"*

Other LGBT attorneys reported incidents of overt discrimination that appeared to be sanctioned by the employer. This, too, would discourage reporting such conduct to a supervisor.

- *(I hear) consistent- offensive- and sometimes frightening comments and slurs towards GLBT people. These most often occur around places like the conference table or lunch table and when not in the direct context of work people think it's amusing to joke/harass.*
- *I very often hear discriminatory remarks and assumptions about GLBT people.*
- *(There were) Inappropriate comments made and attention by my boss to my then partner in my presence.*

Non LGBT respondents also reported this kind of office environment

- *I am "straight". I have witnessed my friend be the victim of discrimination because of his orientation.*
- *I have seen friends in the profession treated unfairly. My office has no openly gay members with almost 200 attorneys....those that were here left.*

Some respondents gave examples of how an attorney's sexual orientation can effect positions and promotions

- *Although all the other lawyers at (a major corporation) who joined in 1983 were promoted by the time I left the company, I was never promoted. I believe this had to do with the combination of my sexual orientation and my activism on behalf of equal rights for GLBT person*
- *I have witnessed discrimination with fellow associates who were gay. When the firm needed to lay off some employees they first targeted those they believed to be gay.*
- *(I have received) inappropriate remarks speculating about my sexual orientation and how that affects my viewpoint.*

- *I had a boss ... who seemed completely unnerved by my being out in the workplace and active in organizations that promote equal rights for GLBT citizens. He tried hard to hide it but various actions on his part made it clear that it bothered him.*

The pervasiveness and seeming acceptance of such conduct would likely discourage LGBT attorneys and others from reporting such incidents.

## Courtroom

LGBT individuals reported lower rates of discriminatory or inappropriate behavior in the courtroom than they reported from their employers, based on their sexual orientation or gender identity. The sectors in the legal profession that LGBT individuals reported experiencing the most discriminatory conduct based on their sexual orientation was from judges, court staff, opposing counsel, clients and law school professors, administrators or students.

### Source of Discrimination in the Court

Source of Discrimination	Percentage Reporting
Judges	17%
Court Staff	8%
Opposing Counsel	15%

When asked to comment on treatment received from judges and court staff, several LGBT attorneys described derogatory comments and jokes.

- *Negative comments and jokes about gays are still commonplace in courtrooms.*
- *I was at a bar association lecture where a soon-to-be judge, when he described a computer expert from San Francisco, lisped on the words "San Francisco". No one said anything.*
- *I heard a judge ask sarcastically whether my law clerk was "a boy or a girl" and why does "he/she dress that way?"*
- *I've observed discriminatory actions against transgendered attorneys by court staff.*

LGBT attorneys report lower rates of discriminatory conduct from judges and opposing counsel than do women and people of color. The difference likely stems from the fact that many LGBT individuals do not have to be "out" when appearing in court or meeting opposing counsel.

- *Because I "pass" as straight, and because my sexual orientation rarely arises in court situations- it is hard to know when my sexual orientation may have been assumed and served as a basis for improper treatment.*

## "Passing" Or Being Closeted To Avoid Discrimination

Respondents commented that the decision about whether or not to "pass" or come out regarding a person's LGBT status is a complicated issue. While "passing" may be an option with judges or opposing counsel because attorneys are less likely to share personal details about their lives in court or with opposing counsel, omitting such personal details is more challenging with colleagues with whom an individual interacts on a daily basis at work. To access benefits for his or her domestic partner or children, an attorney must describe his or her family situation to the human resources department. To apply for a job, a transgender attorney may have to reveal a previous name or identity. Even if the attorney is single, forgoes available benefits or does not have to reveal his or her gender transition at the application process, office social events and standard office conversation inevitably involve questions concerning a person's life, history and family outside work.

These conversations may quickly "out" an LGBT attorney or present difficult challenges for the LGBT attorney who is trying to conceal his or her sexual orientation or the fact that he or she is transgender.

Nonetheless, many LGBT attorneys revealed in the survey that they are not "out" in the workplace for fear of reprisals and discrimination or simply because the attorneys did not know in advance how they would be treated.

- *I'm in the closet because I'm too afraid to be out at my law firm. I know many other gay attorneys in the same situation.*
- *My sexual orientation is not known in my office- nor do I reveal my sexual orientation to my colleagues- courts or adversaries. I don't know if I would be treated differently if I was open about it.*
- *I have not had negative work experiences personally because of my sexual orientation- but in the legal jobs I had before "coming out" I certainly heard many lewd or discriminatory comments that discouraged me from coming out in those particular jobs.*
- *I am not "out" about being transgendered. My gender identity is a major impediment to most employment opportunities with corporations and law firms. I am very fortunate to be a civil servant for the State- where I am treated far more fairly.*
- *This issue is an extremely important one. It is very difficult walking the fine line and deciding if to come out at work or not. If not- it creates all sorts of other dilemmas and problems. If you do- when is the best time?*

Some attorneys described workplaces that treat LGBT attorneys well.

- *In my particular firm I think that LGBT attorneys are given all of the same opportunities, and the same treatment, as ... (others). The global chairman of the firm is an openly gay man.*
- *My firm knows of my orientation. It is not an issue...*

Finally, several commented that a factor that impacted their acceptance was the extent to which the person conformed to commonly accepted gender stereotypes.

- *That I am gay is not readily apparent to others. I am not an effeminate gay man. Thus- I believe my experience as a gay male white attorney may not accurately reflect what the average gay male attorney experiences in the legal community.*
- *The reason I have not had problems is because I fit the female stereotype -- not too butch. I have seen more butch women have problems.*

## **Recommendations**

The committees made the following recommendations, based on the survey responses described above. Many of their concerns and responses were similar, despite the differences in their workplace experiences. All of the committees recommended more education for attorneys and lawyers, as well as enhanced enforcement of policies. Some requested training to level the playing fields for themselves. There were also recommendations made regarding workplace flexibility.

They agreed that managers and coworkers need to be aware of the legal costs and the morale benefits of a bias-free workplace; that judges and court personnel need more training in not showing bias; and that hiring partners need to be educated in the benefits of a diverse workplace. Each of the committees also stated that enforcement of existing anti-discrimination statutes and policies would make a difference in their workplace experience. Women attorneys and senior lawyers were alike in stating that work hour flexibility would attract them to a workplace and allow them to perform optimally.

Three of the committees wanted on the job training to enhance their own skills. Women and minority attorneys recommended workplace training in rainmaking and senior lawyers advised that technical training on the job would be helpful for some in their age cohort. Minority attorneys also recommended leadership training, so that they could learn to effectuate the kind of work environment in which they would be retained and promoted. LGBT attorneys, understandably, also recommended benefits equity.

All of their recommendations are intended to level the workplace playing field, so that attorneys who are women, racial and ethnic minorities, seniors and/or LGBT continue to be employed in their law offices, have the opportunity to be included in all aspects of the work environment, and have the chance to be promoted.

## Overcoming Gender Bias

- **Encourage and support the enforcement of laws prohibiting gender discrimination and sexual harassment.**

Survey comments indicate that despite laws prohibiting gender discrimination and sexual harassment, this behavior continues. This conduct is antithetical to a supportive work environment and places employers at risk. Respondents state that they are unwilling to report sexual harassment or file claims for fear of being stigmatized and retaliated against. For this to change, employers must increase employee training and demonstrate a commitment to these issues.

- **Promote education regarding the consequences for violating such laws and the business advantages of a collegial and harassment-free work environment.**

Employers must emphasize that they have a zero tolerance policy for sexual harassment and discrimination of any kind, in order to recruit the best and the brightest. Employers must demonstrate a willingness not only to develop supportive policies, but also a willingness and ability to enforce the existing policies in a supportive manner, free from retaliation. A harassment-free work environment is essential to retain a modern, diverse, professional staff.

- **Provide employer training on development and implementation of workplace policies, with particular emphasis on procedures for raising and resolving concerns in a meaningful way.**

It is important to improve training for employers on the nature of and need for policies prohibiting gender discrimination and sexual harassment and on implementation and enforcement of these policies. Most violations could be resolved with a clear, confidential process for filing complaints and a safe, supportive environment in which to air grievances.

- **Provide training and opportunities for networking and rainmaking.**

Women often feel left out of the business of attracting new clients because they are not included in social events where networking takes place, a vestige of the “good old boys’ club.” Employers will benefit by providing training and opportunities for networking and rainmaking, with clearly stated expectations of how to become a partner.

- **Develop flexible policies that allow all attorneys, female and male, to adjust their schedules to achieve work-life balance, which can improve the financial and overall health of an organization.**

Studies have shown that increasing numbers of attorneys are seeking work-life balance in their careers. In response, many workplaces are adopting policies that allow for flex-time, part-time or job sharing. Flexible work schedule policies encourage attorneys to



stay rather than flee the law firm culture, so that firms do not lose what they have invested in experienced and trained attorneys.

- **Develop and implement partnership and other promotional tracks for employees working flexible, reduced hours.**

Adopting policies that provide for achieving partnership despite working fewer billable hours demonstrates a true commitment to the concept of work-life balance. Creating partner tracks for reduced hour employees also serves to maintain a well trained, committed and positive work force.

- **Provide mentoring opportunities within the legal community.**

Some survey participants indicated that, especially within law firms, it was difficult to be included in the male-centered culture and, as a result, they could not identify a mentor. Perhaps quasi-formal mentoring programs through local or women's bars could be developed to assist female attorneys in becoming experienced, productive and connected professionals who will advance within the firm structure and be an asset to the organization.

## **Addressing Age Discrimination**

- **Educate employers about the advantages of hiring older lawyers.**

Survey comments suggest that many employers assume that hiring older lawyers will be expensive, but many older attorneys are not demanding regarding benefits or salary, and simply want to have an opportunity to move laterally or even into a new area of law. This flexibility may work to the economic advantage of potential employers and should be explored.

- **Enforce statutes and policies that prohibit age discrimination.**

There are laws that protect older attorneys from age discrimination in certain circumstances. Employers should avail themselves of FEHA and EEO training. The laws must be enforced to prevent discrimination, maximize the opportunities and emphasize the abilities of older lawyers, and prevent stigma and retaliation where discrimination is reported.

- **Create flexible work environments to accommodate needs of older attorneys.**

Studies have shown that replacing attorneys is expensive for law firms. Modern policies, such as flex-time, job-sharing, or alternate work schedules enable work-life balance and encourage attorneys to stay at law firms, thereby reducing turnover and creating stability and a loyal workforce. Aging attorneys continue to contribute to the success of the firm. Employers should be creative in developing ways for productive, experienced

older attorneys to remain with the firm, for example as senior associates and emeritus attorneys.

- **Offer and provide technical training where necessary for employers and for older attorneys.**

The fast pace of developing technology can create a sense of fear and isolation for some older attorneys. In many cases, older attorneys are reluctant to admit that they are not “computer literate” or familiar with the Internet. Firms should offer additional training in technology, when it is requested. One way to accomplish that is by pairing older attorneys with younger ones, creating a natural opportunity to mentor in a reciprocal manner.

## **Responding to Bias toward Ethnic Minorities**

- **Equal employment opportunity and diversity training for employers.**

Legal employers should institute EEO and diversity training for all staff, attorneys and managers to ensure that minority attorneys are given equal employment opportunities regardless of their race and ethnicity. These trainings should address the potential liability for employers who fail to address these concerns appropriately. Such training should provide guidance to legal employers on how to respond to and effectively resolve such complaints, including performance management of those who exhibit bias in the workplace. Such training must also address subtle stereotypes of minorities as being less qualified, as well as more overtly derogatory prejudices.

- **Training for judges and court personnel addressing stereotypes and bias in the courtroom.**

In many instances, minority attorneys must first overcome the stereotypical presumption that they are not attorneys, before they are even given an opportunity to address the court. There is a need for bias awareness training for judges, judicial officers and court personnel on the adverse impact of racial stereotyping on the ability of minority attorneys to practice before the State's courts and the deleterious impact on their clients' ability to receive fair trials. The State Bar should continue to work closely with the Judicial Council of California to devise guidelines for such training.

- **Leadership training for minority attorneys that includes strategies for finding mentors, procuring good work assignments and developing clients, as well as addressing bias incidents in the workplace**

Employers who are truly concerned about retention should institute leadership training for minority attorneys to help them to overcome the additional hurdles that they face in the workplace and in the profession. While most diversity training includes raising awareness of bias and fostering a tolerance of difference, bar associations should develop training that provides minority attorneys with the leadership training needed to succeed in the profession. This training should include guidance on how to find mentors

and on how to develop one's career plan to procure challenging and high profile work assignments that will provide one with the recognition required to succeed in the workplace. The leadership training should also include effective business development techniques and strategies for both client marketing and client retention as a minority attorney. Finally, leadership training for minority attorneys should also provide strategies on how to address racial and ethnic bias effectively in the workplace, in court and with opposing counsel, without jeopardizing one's career.

- **Bias awareness training for law school administrators, faculty and staff**

Since law schools serve as the gateway into the legal profession, academic institutions must ensure that the "playing field" is even along the pipeline into law practice. This includes ensuring that law school administrators, faculty and staff receive adequate training when issues of bias are raised in cases and in the classroom. Law schools could also consider ways to integrate the topic of elimination of bias in their core curricula and also provide more coursework on race and legal scholarship, to better equip law students and law school graduates with this information, as they enter the profession.

- **Further study should be done on the hiring, retention, advancement and promotion of subgroups of racial and religious minorities as well as women of color**

Further study may be warranted on the specific causes of attrition among minority attorneys and especially, minority women, who reportedly experience a 75% attrition rate (see Miles to Go, an American Bar Association publication). This data will help inform interested parties, including law firm and law office administrators and management, that EEO and diversity training must also take into account the unique experiences of minority women attorneys, which may differ from those of minority men in the legal profession. Further study may also be warranted into the experiences of certain subgroups, including Latino, Asian and Pacific Islander groups, as well as religious minorities, including Jews and Muslims. By disaggregating the data, we can devise more effective and targeted solutions that address the problem of bias in the legal profession.

Also, in future surveys, it would be helpful to assess the impact of bias by support staff on the performance of minority attorneys. Similarly, it would be important to gauge whether minority attorneys also experience biased treatment by co-workers and supervisors, and study the impact of these experiences on their retention and advancement opportunities.

## Overcoming Barriers for Lesbian, Gay, Bisexual and Transgender Attorneys

- **Provide education to all sectors of the legal profession about the rights of LGBT individuals to be free from discriminatory conduct in the workplace and the role that others can play when they observe discriminatory conduct.**

Bar associations should develop LGBT-specific diversity trainings for both management and non-management legal professionals. Employers should add sexual orientation and gender identity to their non-discrimination policies. Employers should schedule periodic LGBT-specific diversity trainings for all of their employees.

- **Provide training to legal employers about the advantages of hiring and retaining LGBT attorneys; the legal responsibility to provide a non-discriminatory work environment; the social and financial benefits of an inclusive, diverse workplace; and the social and financial costs of tolerating discriminatory conduct.**

Bar associations should conduct further studies of the social and financial benefits of diversity as compared to the social and financial costs of discrimination and publicize the findings to legal employers. Diversity trainings should include an overview of the laws protecting LGBT individuals in the workplace.

- **All sectors of the legal profession need basic education about the background and rights of people who are transgender. Also, the legal profession should strive to become more knowledgeable about legal protections for individuals whose gender expression does not conform to traditional gender norms.**

Bar associations should develop diversity trainings for legal employers that include information about the background and rights of transgender people. The judiciary should require training on transgender issues for judges and judicial personnel. Law schools should implement trainings regarding transgender related issues for staff.

- **Law offices and law schools should create an environment conducive to the reporting of discriminatory conduct.**

Legal employers and law schools should create formal policies and internal protocols sensitive to the needs of LGBT employees and law students, to encourage the reporting of discriminatory conduct. These policies should institutionalize significant corrective and/or disciplinary measures to address discriminatory conduct and include protections against retaliation for reporting discriminatory conduct. Legal employers and bar associations should provide opportunities for legal professionals to share strategies for approaching discriminatory comments and conduct in the workplace.

- **Legal employers should ensure complete employee benefits equity.**

Legal employers should provide domestic partners, dependents and children (biological, adopted or step) of LGBT individuals and couples the same benefits that the organization grants to the spouses, dependents and children of heterosexual individuals and couples. These benefits should include health benefits (medical, dental and vision), relocation benefits, care-taking and bereavement leave, access to facilities and services, access to employee assistance programs, pension and survivor benefits, and transition related care for transgender people. Legal employers and law schools should also recognize, sponsor and support involvement in LGBT professional organizations, events and pro bono efforts.

- **The judiciary should increase diversity training for judges and their staffs that addresses the rights of traditionally marginalized groups (including LGBT individuals, as well as women, people of color, seniors, and people with disabilities) to be free from discrimination in the legal profession.**

The Administrative Office of the Courts (AOC) should expand its existing diversity training program; implement policies that protect the reporting of discriminatory conduct against LGBT court employees; and create model best practices materials for judges and administrative court personnel that promote a judiciary free of LGBT-based discrimination.

- **Bar associations should reach out to LGBT law students and faculty to educate them about their rights on campus and in the workplace.**

Bar associations and law schools should organize panel discussions on the issues faced by LGBT law students and faculty and should publish and distribute informational brochures on the rights of LGBT law students and faculty.

- **Additional surveys should be conducted with larger samples on the experience of LGBT individuals in the legal profession.**

Bar associations, the State Bar and law schools should conduct further research on these issues.

## Conclusions

This survey identifies the many challenges to employment and the practice of law facing attorneys from diverse backgrounds. While some experiences are common to all the various constituencies, others are unique and require further study to understand the challenges faced and the implications for the profession. The survey also highlights the fact that issues of bias and discrimination are complex and simple answers cannot address the issues raised.

Regarding gender issues, the comments reveal a “glass ceiling” which is exemplified by some of the following issues: 1) Policies prohibiting gender discrimination or sexual harassment are not enforced; 2) Individuals are reluctant to report acts of gender discrimination or sexual harassment because of the fear of retaliation and the low rates of satisfaction resulting from filing such a complaint; and 3) Employers assume that women will start a family, which will take priority over practicing law.

This survey is a starting point for further exploration to determine what constitutes gender discrimination in the legal profession and, more importantly, what can be done to eradicate it. The State Bar should take a leadership role in identifying and promoting strategies and programs that will educate, instruct and support the type of meaningful change necessary to allow the legal profession to benefit from all that women attorneys can offer once all barriers are removed.

Generally, respondents did not report suffering age discrimination in their 40's, but as attorneys age, they report higher rates of perceived discrimination. The exception is with newly admitted attorneys who are 40 and over who have difficulty obtaining employment. In addition, there are some attorneys ages 50 to 60 and over who have difficulty getting interviewed for open positions or who say that they have lost jobs due to their age. Given the demographics of the membership of the State Bar, in less than a decade the majority of the membership will be considered senior attorneys. It is important to gain information from this segment of the membership now, so that we can begin to develop concrete ways to benefit from the expertise of these attorneys and to provide support mechanisms for aging attorneys.

By collecting both quantitative data and narrative accounts from lawyers of various racial and ethnic backgrounds, this report provides some insight into their experiences in law schools, the workplace and courtrooms, and about the barriers that continue to hinder the ability of minority attorneys to practice law in California. These findings underscore the need for awareness by and training of all members of the legal profession on the pernicious effects of racial and ethnic bias and stereotyping, which continue to hamper the growth of diversity in the legal profession in California.

While there has been progress since lesbian, gay and bisexual individuals were first afforded protection from employment discrimination in 1979, work must still be done to encourage the full and equal participation of LGBT individuals in the legal profession. Discrimination impacts LGBT individuals most noticeably at work, although LGBT individuals are not reporting to their supervisors the discrimination that they suffer.



Respondents cited a variety of discriminatory treatment ranging from offensive comments and derisive jokes in the workplace and in the courtroom to unequal pay, denial of promotion and termination. As such, although the law has progressed in California, the experience of many LGBT attorneys does not reflect that progress.

The Center for Access and Fairness appreciates the participation of the many attorneys who took the time to provide constructive feedback through this online poll. We are aware that many legal workplaces recognize the need for and importance of diversity in the legal profession and that they support the creation of a diverse workforce to respond to business needs, workplace development and community needs. We recognize the benefit of coming together to address diversity issues in order to achieve the greatest success in the local, national and global market and to enhance the public confidence in the legal profession. We will continue to focus on the issues and challenges raised through this survey and will use the information to guide our future activities to increase diversity in the legal profession.

The State Bar of California  
**Access and Fairness Survey**

November, 2005

Conducted by:  
Hertz Research  
Petaluma, California

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Summary of Key Findings  
State Bar of California Access and Fairness Survey - November, 2005

Employer Hiring and Employment Practices

- 81% of the survey respondents said the organization where they worked had equal opportunity policies to encourage nondiscriminatory recruitment, hiring, retention and promotion of a diverse mix of employees.
- 85% said their employer had policies that prohibited discrimination based on gender, age, ethnic or racial background, sexual orientation or gender identity.
- Large law firms, corporations, government agencies, courts, public interest groups and law schools were the employers most likely to have equal opportunity and anti-discrimination policies.
- 41% said their employer had policies that would not agree to the demands of clients with discriminatory policies and practices. 21% said their employers did not have such policies and 38% were uncertain about this.
- Corporations were more likely than other employers to not have policies prohibiting agreement to the demands of clients with discriminatory policies and practices.
- By a 57% to 12% margin, respondents said that their employer granted the same benefits and privileges to lesbian, gay, bisexual and transgender employees and their dependents than it does to non-LGBT employees and their dependents.
- By a 70% to 19% margin, respondents said the organization where they worked had employment policies and practices that allowed them to reasonably balance their professional responsibilities with their family obligations, such as elder or child care.

Table A indicates the steps their employer would allow attorneys to take with respect to their work schedules, if requested:

Table A  
Would Your Organization Allow You to Work the Following Schedules or Ways

% Yes

57% - Work Flexible Hours

47% - Limit the Amount of Time You Work to About 40 Hours Per Week

39% - Telecommute From Home

36% - Work Part- Time

- In general, smaller law firms, government agencies, public interest groups and law schools were the employers likely to show the most flexibility with regard to their employees' work schedules.
- By a 77% to 16% margin, respondents said they had not been denied job advancement or increased pay because of their need to meet family obligations or work an alternative schedule.

### Responses to Gender Based Questions

- Nearly half of the female attorneys interviewed (45%) felt they had been denied equal pay, benefits, promotion or other employment opportunities because of their gender.

Table B indicates the specific economic or employment opportunities female attorneys felt they had lost because of their gender:

Table B  
Which Has Happened to You Because of Your Gender

% Yes (Among Females Only)

28% - Received Unequal Pay

26% - Denied Promotion or Advancement to Partnership

21% - Not Given Good Work Assignments

10% - Told That Clients Did Not Want to Work With You

9% - Received Unequal Benefits

- Among female attorneys who felt they had been denied employment related opportunities because of their gender, 51% said they had discussed these matters with their supervisor.
- 94% of the female attorneys who discussed their concerns about these issues with their supervisor said the problem was not resolved to their satisfaction.
- 33% of female attorneys felt they had lost a client or potential client because of their gender. 24% of male attorneys reported the same thing.
- 41% of female attorneys said they had been treated unfairly or inappropriately in their office because of their gender.

Table C indicates the specific unfair or inappropriate treatment in their office reported by female attorneys:

Table C  
Have You Experienced Any of the Following in Your Office

% Yes (Among Females Only)

31% - Received Condescending Treatment

16% - Sexual Teasing, Looks or Gestures

16% - Told Sexually Demeaning Jokes

10% - Sexually Harassed

2% - Offered Professional Benefits in Return for Sexual Favors

- Inappropriate office behavior toward female attorneys was reportedly more likely to have come from partners (28%) than from associates (15%) or staff (12%).
- While 42% of female attorneys reported this inappropriate office behavior to their supervisor, 89% said the problem was not resolved to their satisfaction.
- 54% of female attorneys said they had encountered discriminatory or inappropriate behavior in other venues of the legal system because of their gender.

Table D indicates the specific discriminatory or inappropriate behavior in other venues of the legal system reported by female attorneys:

Table D  
Have You Experienced Discriminatory or Inappropriate Behavior from Any of the Following

% Yes (Among Females Only)

34% - Opposing Counsel

31% - Judges

16% - Clients

14% - Opposing Parties

11% - Law School Professors/Administrators/Students

10% - Court Personnel

7% - Law Firm Staff

5% - Co-counsel

--- - Bar Examination Staff

Responses to Age Based Questions

- Among attorneys 40 years of age and above, 27% said they believed they had been denied equal pay, benefits, promotion or other employment opportunities because of their age.
- Attorneys 60 years of age and above (54% - small sample) and between 50 and 59 years old (32%) were the most likely to report having lost economic or employment opportunities because of their age.

Table E indicates the specific economic or employment opportunities attorneys 40 years of age and above felt they had lost because of their age:

Table E  
Which Has Happened to You Because of Your Age

% Yes (Among Attorneys 40 Years of Age and Above)

6% - Denied Promotion or Advancement to Partnership

4% - Received Unequal Pay

4% - Not Given Good Work Assignments

2% - Received Unequal Benefits

2% - Told That Clients Did Not Want to Work With You

- 40% of those who believed they had been denied employment or economic opportunities because of their age discussed these matters with their supervisor. However, none of those who did so said the problem was not resolved to their satisfaction.
- By a 59% to 16% margin, attorneys 40 years of age and above said they did not believe they had lost a client or potential client because of their age. 25% were uncertain about this.
- 79% of attorneys 40 years of age and above said they did not believe they had been treated unfairly or inappropriately in their office because of their age.
- 76% in that age group said they had not encountered discriminatory or inappropriate behavior in other venues of the legal system because of their age.
- 83% in that age group said they did not find the infirmities of aging to be a significant handicap in practicing law.
- 83% also said they did not feel they were behind on technology or the use of computers because of their age.

- Among those who felt behind in technology and computers, 32% said they would be interested in a reverse mentoring program that provided them with technical training by a young attorney or law student in return for offering the trainer the benefits of their experience as an attorney.

#### Responses to Ethnic or Racial Based Questions

- 41% of the survey participants indicated they were Non-Caucasian or from a mixed racial or ethnic background.
- 40% of the Non-Caucasian attorneys interviewed said they believed they had been denied equal pay, benefits, promotion or other employment opportunities because of their ethnic or racial background.

Table F indicates the specific economic or employment opportunities Non-Caucasian attorneys felt they had lost because of their ethnic or racial background:

Table F  
Which Has Happened to You Because of Your Ethnic or Racial Background

#### % Yes (Among Non-Caucasians Only)

26% - Denied Promotion or Advancement to Partnership

21% - Received Unequal Pay

20% - Not Given Good Work Assignments

11% - Told That Clients Did Not Want to Work With You

8% - Received Unequal Benefits

- 52% of Non-Caucasian attorneys who believed they had been denied employment or economic opportunities because of their age discussed these matters with their supervisor. 92% of those who did so said the problem was not resolved to their satisfaction.
- 34% of Non-Caucasian attorneys said they felt they had lost a client or potential client because of their ethnic or racial background. 23% of Caucasians said this had happened to them.
- 36% of Non-Caucasian attorneys said they felt they had been treated unfairly or inappropriately in their office because of their ethnic or racial background.
- 45% of Non-Caucasian attorneys said they had encountered discriminatory or inappropriate behavior in other venues of the legal system because of their ethnic or racial background.



Table G indicates the specific discriminatory or inappropriate behavior in other venues of the legal system reported by Non-Caucasian attorneys:

Table G  
Have You Experienced Discriminatory or Inappropriate Behavior from Any of the Following

% Yes (Among Non-Caucasians Only)

25% - Opposing Counsel

24% - Judges

15% - Court Personnel

13% - Opposing Parties

12% - Clients

11% - Law School Professors/Administrators/Students

9% - Law Firm Staff

5% - Co-counsel

1% - Bar Examination Staff

Responses to Sexual Orientation/Gender Identity Questions

- 82% of those interviewed described their sexual orientation as straight, 9% gay, 6% lesbian and 3% bisexual.
- 1% of the survey participants said they were transgendered. (The small sample size of this group precludes detailed analysis but general observations about their responses are discussed later in this section)
- 41% of the LGB attorneys interviewed said they believed they had been denied equal pay, benefits, promotion or other employment opportunities because of their sexual orientation.

Table H indicates the specific economic or employment opportunities respondents felt they had lost because of their sexual orientation:

Table H  
Which Has Happened to You Because of Your Sexual Orientation

% Yes (Among LGB Attorneys)

26% - Denied Promotion or Advancement to Partnership

19% - Received Unequal Benefits

19% - Not Given Good Work Assignments

15% - Received Unequal Pay

9% - Told That Clients Did Not Want to Work With You

- None of the LGB attorneys who felt they had been denied equal pay, benefits, promotion or other employment related opportunities because of their sexual orientation discussed these matters with their supervisor.
- This absence of discussion contrasted sharply with the behavior of members of other demographic groups who felt they had been denied employment related opportunities because of their background. 51% of females, 40% of those 40 years of age and above and 52% of Non-Caucasians or mixed race individuals who felt they had lost such opportunities discussed these matters with their supervisor.
- 25% of LGB attorneys said they felt they had lost a client or potential because of their sexual orientation.
- 36% of LGB attorneys said they felt they had been treated unfairly or inappropriately in their office because of their sexual orientation.
- 37% of LGB attorneys said they had encountered discriminatory or inappropriate behavior in other venues of the legal system because of their sexual orientation.

Table I indicates the specific discriminatory or inappropriate behavior in other venues of the legal system reported by LGB attorneys:

Table I  
Have You Experienced Discriminatory or Inappropriate Behavior from Any of the Following

% Yes (Among LGB Attorneys)

17% - Judges

15% - Opposing Counsel

10% - Clients

9% - Law School Professors/Administrators/Students

8% - Court Personnel

7% - Opposing Parties

5% - Law Firm Staff

2% - Co-counsel

---- - Bar Examination Staff

### Responses by Smaller Demographic Sub-Groups

Several demographic sub-groups of survey participants gave responses that were in some respects, significantly different than those of other respondents. However, the sample size for these sub-groups was not large enough to be statistically definitive.

Prominent among these sub-groups were African Americans (77 interviews), gay males (68 interviews), lesbians (51 interviews) and transgendered individuals (8 interviews). With the limitations of these small samples in mind, here is a brief summary of the responses of each of these groups.

African-Americans consistently reported higher occurrences than other Non-Caucasians, of being denied employment related opportunities and experiencing discriminatory or inappropriate behavior in other venues of the legal system because of their racial or ethnic identity.

This higher rate of occurrence was seen in the responses to every employment related question, receiving equal pay or benefits, being denied promotion or advancement to partnership, not being given good work assignments and being told that clients did not want to work with them.

A number of the responses to open-ended questions from African-American and other racial or ethnic minority group members spoke to the frustration of dealing with *low expectations* by employers or colleagues based on their minority status.

Gay males also reported higher occurrences of being denied employment related opportunities than those of other sexual orientations. The responses by gay males to questions about discriminatory or inappropriate behavior in other venues of the legal systems were largely similar to the views expressed by lesbians or bisexual individuals.

Lesbians were somewhat more likely than gay males to report discriminatory or inappropriate behavior from judges, opposing counsel and parties.

Transgendered individuals reported significantly higher rates than other survey respondents of being denied employment related opportunities and being treated unfairly or inappropriately in their office. However, any conclusions about these trends must take into consideration the small size of this group that were interviewed.

Summary Results (833 Interviews)  
State Bar of California Access and Fairness Survey - November, 2005

Video Intro

1. Which of the following best describes your law practice?

17% 1. Solo Practice	21% 6. Government/Courts
18% 2. Small Firm (Less than 30 Attorneys)	11% 7. Public Interest
4% 3. Medium Firm (30 - 100 Attorneys)	4% 8. Law School/Legal Academia
11% 4. Large Firm (More than 100 Attorneys)	2% 9. Non-Legal Practice
6% 5. Corporate	4% 10. Unemployed
	2% 11. Other

2. Which of the following best describes your current position?

20% 1. Associate	5% 6. Corporate Counsel
2% 2. Non-equity partner	1% 7. Judge
8% 3. Equity partner	4% 8. Law School Faculty/Admin
26% 4. Staff Attorney	8% 9. Other
8% 5. Managing/Supervising Attorney	18% 10. Solo

3. How many years have you been practicing law?

27% 1. Under 5 Years	19% 4. 21-30 Years
22% 2. 5-10 Years	7% 5. More than 30 Years
25% 3. 11-20 Years	

4. Where do you practice law?

41% 1. San Francisco Bay Area	10% 5. Other Southern California
6% 2. Other Northern California	4% 6. Central Valley
27% 3. Los Angeles Area	2% 7. Central Coast
6% 4. San Diego Area	4% 8. Outside California

5. What is your approximate annual salary or income derived from your legal practice?

20% 1. Under \$50,000	5% 4. \$201,000 - \$350,000
39% 2. \$50,000 - \$100,000	3% 5. Over \$350,000
33% 3. \$101,000 - \$200,000	

6. Does the organization where you work have an equal opportunity policy to encourage nondiscriminatory recruitment, hiring, retention and promotion of a diverse mix of employees?

81% 1. Yes                      7% 2. No                      12% 3. Not sure

7. Does the organization where you work have policies that prohibit discrimination based on gender, age, ethnic or racial background, sexual orientation or gender identity?

85% 1. Yes                      6% 2. No                      9% 3. Not sure

8. Does your organization have policies that it will not agree to the demands of clients whose policies and practices discriminate against people based on their gender, age, ethnic or racial background, sexual orientation or gender identity?

41% 1. Yes                      21% 2. No                      38% 3. Not sure

9. Does your organization grant the same benefits and privileges to lesbian, gay, bisexual and transgender employees and their dependents that it does to non-LGBT employees and their dependents?

57% 1. Yes                      12% 2. No                      31% 3. Not sure

10. Does your organization have employment policies and practices that allow you to reasonably balance your professional responsibilities with your family obligations, such as child or elder care?

70% 1. Yes                      19% 2. No                      11% 3. Not sure

10A. If you wanted to, would your organization allow you to work the following schedules?  
[Check all they would allow you to do if you wish]

% Yes

57% Work flexible hours

47% Limit the amount of time you work to about 40 hours per week

36% Work part-time

39% Telecommute from home

10B. Do you believe that you have been denied job advancement or increased pay because of your need to take time to meet your family obligations or work an alternative schedule?

16% 1. Yes                      77% 2. No                      7% 3. Not sure

10C. Are there any other comments you would like to make about your organization's hiring and employment practices in the areas we have discussed?

See Comments

## Video Intro to Gender Questions

11. What is your gender?

32% 1. Male                      68% 2. Female

12. Do you believe that you have been denied employment, equal pay, benefits, promotion or any other employment related opportunities because of your gender?

	Males	Females
1. Yes	13%	45%
2. No [Skip to Q. 18]	79%	44%
3. Not sure [Skip to Q. 18]	8%	11%

13. Please tell us which of the following you believe has happened to you because of your gender. [Check all that apply]

	% Yes Males	Females
Received unequal pay	3%	28%
Received unequal benefits	3%	9%
Were not given good work assignments	6%	21%
Were told that clients did not want to work with you	3%	10%
Were denied promotion or advancement to partnership	7%	26%

14. Did you discuss these matters with your supervisor?

	Males	Females
1. Yes	52%	51%
2. No [Skip to Q. 16]	48%	49%

15. Was the problem resolved to your satisfaction?

	Males	Females
1. Yes	6%	6%
2. No	94%	94%

16. Have you ever felt that you have lost a client or potential client because of your gender?

	Males	Females
1. Yes	24%	33%
2. No	56%	42%

3. Not sure	20%	25%
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17. Are there any other employment related opportunities that you believe you have missed because of your gender? [Among those who said they lost economic opportunities because of their gender in Q. 12]

	Males	Females
1. Yes	63%	65%
2. No [Skip to Q. 18]	26%	18%
3. Not sure [Skip to Q. 18]	11%	17%

17A. Please describe why you believe that.

See Comments

18. Do you believe you have been treated unfairly or inappropriately in your office because of your gender?

	Males	Females
1. Yes	11%	41%
2. No [Skip to Q. 23]	84%	52%
3. Not sure [Skip to Q. 23]	5%	7%

19. Please tell us whether you experienced any of the following in your office?  
[Check all that apply]

	% Yes	Males	Females
Sexual harassment		2%	10%
Sexual teasing, looks or gestures		3%	16%
Were offered professional benefits in return sexual favors		2%	2%
Were told sexually demeaning jokes		3%	16%
Condescending treatment		8%	31%

19A. Who did this behavior come from? [Check all that apply]

	% Yes	Males	Females
1. Partner		5%	28%
2. Associate		4%	15%
3. Staff		6%	12%



20. Are there any other types of inappropriate behavior you experienced in your office because of your gender? [Among those who said they been treated unfairly or inappropriately in their office in Q. 18]

	Males	Females
1. Yes	48%	37%
2. No [Skip to Q. 21]	41%	36%
3. Not sure [Skip to Q. 21]	11%	27%

20A. Please describe what you experienced.

See Comments

21. Did you report any of this inappropriate behavior to your supervisor?

	Males	Females
1. Yes	46%	42%
2. No [Skip to Q. 23]	54%	58%

22. Was the problem resolved to your satisfaction?

	Males	Females
1. Yes	----	11%
2. No	100%	89%

23. Have you encountered discriminatory or inappropriate behavior in any other venue of the legal system because of your gender?

	Males	Females
1. Yes	9%	54%
2. No [Skip to Q. 25]	84%	37%
3. Not sure [Skip to Q. 25]	7%	9%

24. Please tell us if you experienced this behavior from any of the following  
[Please check all that apply]

	Males	Females
Judges	4%	31%
Court Personnel	1%	10%
Clients	2%	16%
Opposing Parties	1%	14%
Opposing Counsel	3%	34%

Co-counsel	---	5%
Law Firm Staff	1%	7%
Law School Prof/Admin/Students	1%	11%
Bar Examination Staff	---	---

25. Are there any other comments you would like to make about discrimination or inappropriate behavior you've experienced in your practice of law because of your gender?

See Comments

#### Video Intro to Age-Based Questions

26. Please indicate what age group you are in.

- 10% 1. 18 - 29 Years [Skip to Video Intro to Next Group of Questions]
- 33% 2. 30 - 39 Years [Skip to Video Intro to Next Group of Questions]
- 24% 3. 40 - 49 Years
- 27% 4. 50 - 59 Years
- 5% 5. 60 - 69 Years
- 1% 6. 70 Years +

27. Do you believe that you have been denied employment, equal pay, benefits, promotion or any other employment related opportunities because of your age?

- 27% 1. Yes
- 64% 2. No [Skip to Q. 32]
- 9% 3. Not sure [Skip to Q. 32]

28. Please tell us which of the following you believe has happened to you because of your age.  
[Check all that apply]

- 4% Received unequal pay
- 2% Received unequal benefits
- 4% Were not given good work assignments
- 2% Were told that clients did not want to work with you
- 6% Were denied promotion or advancement to partnership

29. Did you discuss these matters with your supervisor?

- 40% 1. Yes
- 60% 2. No [Skip to Q. 30]

29A. Was the problem resolved to your satisfaction?

---- 1. Yes 100% 2. No

30. Have you ever felt that you have lost a client or potential client because of your age?

16% 1. Yes 59% 2. No 25% 3. Not sure

31. Are there any other employment related opportunities that that you believe you have missed because of your age? [Among those who said they lost economic opportunities because of their age in Q. 27]

79% 1. Yes 10% 2. No [Skip to Q. 32] 11% 3. Not sure

31A. Please describe why you believe that.

See Comments

32. 18. Do you believe you have been treated unfairly or inappropriately in your office because of your age?

13% 1. Yes  
79% 2. No [Skip to Q. 33]  
8% 3. Not sure [Skip to Q. 33]

32A. Please describe what you experienced.

See Comments

33. Have you encountered discriminatory or inappropriate behavior in any other venue of the legal system because of your age?

10% 1. Yes  
76% 2. No [Skip to Q. 35]  
14% 3. Not sure [Skip to Q. 35]

34. Please tell us if you experienced this behavior from any of the following  
[Please check all that apply]

2% 1. Judges	1% 6. Co-counsel
1% 2. Court Personnel	1% 7. Law Firm Staff
1% 3. Clients	1% 8. Law School Professors/Admin/Students
1% 4. Opposing Parties	---- 9. Bar Examination Staff
2% 5. Opposing Counsel	

35. Have you found the infirmities of aging to be a significant handicap in practicing law?

8% 1. Yes

83% 2. No [Skip to Q. 37]  
9% 3. Not sure [Skip to Q. 37]

36. Do you have any suggestions to alleviate or overcome this problem?

41% 1. Yes  
43% 2. No [Skip to Q. 37]  
16% 3. Not sure [Skip to Q. 37]

36A. What would you suggest?

See Comments

37. Do you believe that you are behind on technology, especially using the computer because of your age?

13% 1. Yes  
83% 2. No [Skip to Q. 39]  
4% 3. Not sure [Skip to Q. 39]

38. Would you be interested in participating in a “Reverse Mentoring” program that provides training by a law student or young attorney on using computers in the practice of law in return for offering them the benefits of your experience as an attorney?

[Among those who answered Yes to Q. 37]

32% 1. Yes	58% 2. No	10% 3. Not sure
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39. Are there any other comments you would like to make about discrimination or inappropriate behavior you’ve experienced in your law practice because of your age?

See comments

#### Video Intro to Ethnic or Racial Background Questions

40. What is your ethnic or racial background?

59% 1. White/Caucasian	1% 5. Native American
9% 2. African-American	4% 6. Mixed Race
10% 3. Latino/Hispanic	2% 7. Other
15% 4. Asian Pacific Islander	

41. Do you believe that you have been denied employment, equal pay, benefits, promotion or any other employment related opportunities because of your ethnic or racial background?

	Whites	Non-Whites
1. Yes	9%	40%
2. No [Skip to Q. 47]	87%	42%

3. Not sure [Skip to Q. 47]	4%	18%
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42. Please tell us which of the following you believe has happened to you because of your ethnic or racial background. [Check all that apply]

	% Yes	Whites	Non-Whites
Received unequal pay		3%	21%
Received unequal benefits		1%	8%
Were not given good work assignments		4%	20%
Were told that clients did not want to work with you		1%	11%
Were denied promotion or advancement to partnership		5%	26%

43. Did you discuss these matters with your supervisor?

	Whites	Non-Whites
1. Yes	37%	52%
2. No [Skip to Q. 45]	63%	48%

44. Was the problem resolved to your satisfaction?

	Whites	Non-Whites
1. Yes	13%	8%
2. No	87%	92%

45. Have you ever felt that you have lost a client or potential client because of your ethnic or racial background?

	Whites	Non-Whites
1. Yes	23%	34%
2. No	61%	39%
3. Not sure	16%	27%

46. Are there any other employment related opportunities that that you believe you have missed because of your ethnic or racial background? [Among those who said they lost economic opportunities because of their ethnic or racial background in Q. 41]

	Whites	Non-Whites
1. Yes	78%	83%
2. No [Skip to Q. 47]	16%	8%
3. Not sure [Skip to Q. 47]	6%	9%

46A. Please describe why you believe that.

See comments

47. Do you believe you have been treated unfairly or inappropriately in your office because of your ethnic or racial background?

	Whites	Non-Whites
1. Yes	5%	36%
2. No [Skip to Q. 48]	91%	55%
3. Not sure [Skip to Q. 48]	4%	9%

47A. Please describe what you experienced.

See comments

48. Have you encountered discriminatory or inappropriate behavior in any other venue of the legal system because of your ethnic or racial background?

	Whites	Non-Whites
1. Yes	6%	45%
2. No [Skip to Q. 50]	89%	39%
3. Not sure [Skip to Q. 50]	5%	16%

49. Please tell us if you experienced this behavior from any of the following [Please check all that apply]

	% Yes	Whites	Non-Whites
Judges		2%	24%
Court Personnel		1%	15%
Clients		1%	12%
Opposing Parties		1%	13%
Opposing Counsel		1%	25%
Co-counsel		1%	5%
Law Firm Staff		1%	9%
Law School Professors/Admin/Students		2%	11%
Bar Examination Staff		----	1%

50. Are there any other comments you would like to make about discrimination or inappropriate behavior you've experienced in your law practice because of your ethnic or racial background?

See comments

#### Video Intro to Sexual Orientation/Gender Identity Questions

51. What is your sexual orientation?

82% 1. Straight	6% 3. Lesbian
9% 2. Gay	3% 4. Bisexual

51A. Are you transgendered?

1% 1. Yes	99% 2. No
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52. Do you believe that you have been denied employment, equal pay, benefits, promotion or any other employment related opportunities because of your sexual orientation or gender identity?

	Straight	Lesbian/Gay/Bisexual
1. Yes	3%	41%
2. No [Skip to Q. 58]	93%	47%
3. Not sure [Skip to Q. 58]	4%	12%

53. Please tell us which of the following you believe has happened to you because of your sexual orientation or gender identity. [Check all that apply]

	% Yes Straight	LGB
Received unequal pay	1%	15%
Received unequal benefits	1%	19%
Were not given good work assignments	1%	19%
Were told that clients did not want to work with you	----	9%
Were denied promotion or advancement to partnership	1%	26%

54. Did you discuss these matters with your supervisor?

	Straight	Lesbian/Gay/Bisexual
1. Yes	----	----
2. No [Skip to Q. 56]	100%	100%

55. Was the problem resolved to your satisfaction?

	Straight	Lesbian/Gay/Bisexual
1. Yes	----	----
2. No	100%	100%

56. Have you ever felt that you have lost a client or potential client because you are an LGBT attorney?

	Straight	Lesbian/Gay/Bisexual
1. Yes	7%	25%
2. No	79%	52%
3. Not sure	14%	23%

57. Are there any other employment related opportunities that that you believe you have missed because of your sexual orientation or gender identity?[Among those who said they lost economic opportunities because of their sexual orientation or gender identity in Q. 52]

	Straight	Lesbian/Gay/Bisexual
1. Yes	33%	69%
2. No [Skip to Q. 58]	47%	13%
3. Not sure [Skip to Q. 58]	20%	18%

57A. Please describe why you believe that.

See Comments

58. Do you believe you have been treated unfairly or inappropriately in your office because of your sexual orientation or gender identity?

	Straight	Lesbian/Gay/Bisexual
1. Yes	2%	36%
2. No [Skip to Q. 59]	95%	51%
3. Not sure [Skip to Q. 59]	3%	13%

58A. Please describe what you experienced.

See Comments

59. Have you encountered discriminatory or inappropriate behavior in any other venue of the legal system because of your sexual orientation or gender identity?

	Straight	Lesbian/Gay/Bisexual
1. Yes	3%	37%
2. No [Skip to Q. 61]	95%	42%
3. Not sure [Skip to Q. 61]	2%	21%

60. Please tell us if you experienced this behavior from any of the following  
[Please check all that apply]

	% Yes	Straight	Lesbian/Gay/Bisexual
Judges		1%	17%
Court Personnel		1%	8%
Clients		1%	10%



Opposing Parties	1%	7%
Opposing Counsel	2%	15%
Co-counsel	1%	2%
Law Firm Staff	1%	5%
Law School Professors/Admi/Students	-----	9%
Bar Examination Staff	-----	-----

61. Are there any other comments you would like to make about discrimination or inappropriate behavior you've experienced in your law practice because of your sexual orientation or gender identity?

See Comments

#### Video Wrap-up

62. Do you have any additional comments you would like to make about any of the topics we discussed in this survey?

See Comments

63. Please tell us if you would like to be notified when the results of this survey are posted on the State Bar web site and would you like to participate in future State Bar research projects?

59% 1. Yes - I want to be notified when the survey results are available and I would like to participate in future research projects

11% 2. Yes - I want to be notified when the survey results are available but I would not like to participate in future research projects

8% 3. Yes - I would like to participate in future research projects but I do not need to be notified when the results of this survey are available

22% 4. No - I do not want to be notified when the survey results are available and I would not like to participate in future research projects [End of survey]

64. Please provide us with your e-mail address if you would like us to contact you.

## Survey Background Facts

Dates of Interviews:	March 1st – October 1st, 2005
Number of Interviews:	833 Members of the State Bar of California
Conducted by:	Hertz Research, Petaluma, CA

## How the State Bar of California Survey was Conducted

This survey of California State Bar members was conducted by Hertz Research of Petaluma, California. Most of the poll interviews were conducted online. Members who requested to take the survey offline were mailed or faxed a hardcopy version of the questionnaire.

Members of the State Bar were notified of the existence of the survey through numerous means including, but not limited to: articles in the California Bar Journal, postings on the State Bar web site, announcements at the State Bar Annual Meeting and notifications to groups and individuals contacted by the State Bar's Office of Legal Services, Access and Fairness Programs.

Because the primary intent of the survey was to measure the opinions of specific groups of members of the State Bar, the survey was not intended to be a random sampling of the entire State Bar membership. It was designed to measure the opinions of four groups of State Bar members, females, racial or ethnic minorities, those 40 years of age and above and LBGT attorneys.

The survey sample consisted of 563 females, 471 individuals 40 years of age and above, 335 Non-Caucasians or mixed race individuals, and 155 LBGT attorneys. Since transgendered respondents accounted for only 1% of the survey sample, this group was not large enough for separate statistical analysis. However, the responses of these individuals are summarized in the Smaller Sub-Groups Responses section in the Summary of Key Findings.

Regardless of methodology, all polls are potentially affected by a number of factors that may influence their accuracy. A common source for survey inaccuracy is sampling error. The number of respondents largely determines sampling error. The margin of sampling error for the sub-groups in this survey are approximately +/- 5% for females and those 40 years of age and above, +/- 6% for Non-Caucasians or mixed race individuals and +/- 8% for the LBGT group.

Other sources of error also can impact the accuracy of poll results. These include, but are not limited to, the percentage of the population being surveyed who chose to participate, the likelihood of being connected to the Internet, the wording, and ordering of questions and the methods used to make potential participants aware of the survey. The cumulative impact of all of these potential sources of error is impossible to assess precisely.